

**STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
SPECIAL CONDITIONS AND SPECIFICATIONS
FOR FURNISHING
ASPHALTIC MIXTURE FOR HOT APPLICATION**

Please read the following instructions and special conditions and specifications carefully. Any deviation may cause your bid to be disqualified.

CONTRACT

Contract for furnishing Asphaltic Mixture for Hot Application as requested in accordance with provisions set forth for the six (6) month period as specified herein.

PURPOSE AND INTENTION

The purpose and intention of this invitation to bid is to comply with State laws and establish a contract between the Department and the successful bidder(s), whereby the Department may purchase Asphaltic Mixture for Hot Application from the contractor as shown herein.

CONTRACT PREFERENCE FORM

The contract form in its entirety shall become a part of the contract upon execution by the Department. Bidder shall fill in this form completely and shall sign in the appropriate places and return to the Procurement Section of the Department of Transportation and Development before the time set for receiving contracts on the front hereof. Bidders are advised that bids mailed through the U.S. Postal Service to our post office box are received at the Baton Rouge Main Post Office and are picked up by the Division of Administration and then routed to the Department of Transportation and Development; therefore, extra delivery time is needed in order for bids to be received and time-stamped in our office before the bid deadline.

Bids may be mailed through the U.S. Postal Service to our box at:

DOTD Procurement Section
Headquarters Administration
4th Floor East Wing S-447
P. O. Box 94245
Baton Rouge, LA 70804-9245

Bids may be delivered by hand or courier service to our physical location as follows:

DOTD Procurement Section
Headquarters Administration
4th Floor East Wing S-447
1201 Capitol Access Road
Baton Rouge, LA 70802

Bidders are solely responsible for ensuring that its courier service provider makes inside deliveries to our physical location. The DOTD Procurement Office is not responsible for any delays caused by the bidder's chosen means of delivery. Bidder is solely responsible for the timely delivery of its bid. Failure to meet the bid opening date and time shall result in rejection of the bid. **Note: The time set for receiving proposals is Central Standard Time (CST).**

SCOPE OF WORK

Scope of work includes labor, materials, and services required to produce Asphaltic Mixture for Hot Application which is acceptable to the Department of Transportation and Development.

QUANTITIES

No specific quantities are given or guaranteed, only such Asphaltic Mixture for Hot Application as required by the Department of Transportation and Development during the contract period will be ordered.

The successful bidder must supply at bid price quantities as ordered whether the total of such quantities are more or less than the quantities shown on the solicitation.

Both regular and polymer modified asphaltic mixture will be available for use by the Department. It will be at each District Administrator's option of which product to purchase.

SPECIFICATIONS

All Asphaltic Mixture for Hot Application must be in accordance with DOTD Specification No. MS 164-002, Dated February, 1997 and Polymer Modified Asphaltic Materials, DOTD Specification No. MS 164-004, Dated November, 1995. If performance of the materials is determined to be unsatisfactory, the Department reserves the right to cancel the contract.

PRE-QUALIFICATION REQUIREMENTS

Bidder's plant for supplying Asphaltic Mixture for Hot Application must be certified prior to award. After the award of the contract, it will be the responsibility of each District to make sure the bidder's plant is still certified before material is picked up at various plant locations throughout the life of the contract.

GUARANTEE AND LIABILITY

The contractor accepts the following guarantees:

- (1) Guarantee that the supplies delivered are free from defects in design and construction.
- (2) Guarantee that the supplies are the manufacturer's standard design in construction and that no changes or substitutions have been made in the items listed in this contract.

The contractor holds and saves the State, its officers, agents, and employees harmless from liability of any kind, including cost and expenses on account of any patented or unpatented invention, articles, devices or appliances manufactured or used in the performance of this contract, including use by the government.

The contractor agrees to replace free of charge all defective equipment, materials or supplies delivered under this contract. All transportation charges covering return and replacement shall be paid by the contractor.

PRICES

All prices quoted shall be in the unit of measure as shown on the RFX and shall remain firm for the contractual period. Unit price bid must not exceed two (2) digits to right of decimal point. Unit price submitted beyond two (2) digits will be rounded off to the nearest second digit.

Prices quoted shall include all costs incidental to any license or patent that may be held by any company processing the materials bid on and the dealer agrees to hold the Department of Transportation and Development harmless from any claims, suites, costs, or penalties for infringement or use of licensed or patented products.

BID OPENING

Bids will be publicly opened and read but no information or opinions concerning the ultimate contract award will be given at the bid opening or during the evaluation process. Bids may be examined 72 hours after bid opening. Information pertaining to completed files may be secured by visiting the Department of Transportation and Development during normal working hours.

BASIS OF AWARD

The contract for furnishing Asphaltic Mixture for Hot Application herein specified for the period indicated shall be awarded to the bidder(s) offering Asphaltic Mixture for Hot Application at plants which have been certified by the Department prior to award and complying with all details of this contract bid as determined by the DOTD Procurement Director. It will be up to the District Administrator to select a certified plant closest to the jobsite based upon the unit price bid and the current mileage factor. Mileage will be computed on the basis of \$0.15 per mile for the first 41 miles, then \$0.75 per mile thereafter.

Aggregates must be from an approved source listed on Approved Materials List: Aggregates. A copy of Approved Materials List: Aggregates is attached for your reference.

Polymer Modified Asphalt PAC-40HG and PAC 30 must be from an approved source listed on Approved Materials List: Asphaltic Materials, formerly Qualified Products List 41. A copy of Approved Materials List: Asphaltic Materials is attached for your reference.

Plants which are established and certified during the life of the contract may be considered for supplemental award based on factors which are advantageous to the Department of Transportation and Development. The decision will be based on the best interest of the Department as determined by the DOTD Procurement Director. Awards will not be made

if plant is within a radius of ten (10) road miles of a plant location which was awarded at the original contract award.

Discounts will not be considered in determining low bidder.

MATERIAL AVAILABILITY

The successful bidder will be required to have on hand or immediately available an adequate supply of Asphaltic Mixture for Hot Application in order to meet the Department's requirements, as ordered, where ordered, during the life of the contract.

Contractors must be in a position to furnish Asphaltic Mixture for Hot Application as requested by District Administrator.

It will be the responsibility of the contractor to give the District Administrator a forty-eight (48) hour notice as to when the plant will be out of operation and/or in the event that the plant is shut down permanently.

PURCHASE ORDERS

Purchase orders will be issued by the Department of Transportation and Development. Each Purchase Order will state an actual or estimated quantity that is required and all other pertinent data necessary to assist the contractor to make proper delivery. In no event shall delivery be made without proper authorization.

INVOICES

Upon delivery and its acceptance by the Department, the contractor shall bill the Department by means of an invoice and such invoice shall make reference to the Purchase Order Number on which delivery was made.

At the time of delivery, the contractor is to make a delivery receipt on his own form showing complete description, the exact quantity delivered, price and extension. Such delivery ticket must make reference to the Purchase Order Number.

Invoices shall be submitted by the contractor directly to the address shown on the Purchase Order.

Invoice price must agree with contract price.

PAYMENTS

Invoices will be paid by the Department within the discount period or within thirty calendar days from receipt of correct invoice. If contractor proposes a discount, discount period will start from receipt of correct invoice.

In an effort to increase efficiencies and effectiveness as well as be strategic in utilizing technology and resources, DOTD strongly encourages vendors to participate in accepting Electronic Funds Transfer (EFT) payments.

EFT payments are sent from the State's bank directly to the payee's bank each weekday. The only requirement is that you have an active checking or savings account at a financial institution that can accept Automated Clearing House (ACH) credit files and remittance information electronically. Additional information is available at <http://www.doa.la.gov/OSRAP/EFTforWebsite.pdf>

SAMPLING AND ACCEPTANCE

All Asphaltic Mixture for Hot Application shall be sampled and accepted in accordance with the standard method of sampling asphaltic materials as outlined in the Department's Sampling Manual.

REJECTION OF BIDS

The Department of Transportation and Development reserves the right to reject any and all bids and/or waive any informalities.

TERMINATION OF CONTRACT

The Department reserves the right to terminate this contract prior to the end of the contract period upon giving a ten (10) day written notice to the contractor for unsatisfactory performance, unsatisfactory delivery, unsatisfactory service, failure to meet specifications, misrepresentation by the contractor, fraud, collusion, conspiracy or other unlawful means of obtaining any contract with the State, conflict of contract provisions with constitutional or statutory provisions of State or Federal Law, and/or any breach of contract.

The Department reserves the right to terminate this contract prior to the end of the contract period upon giving thirty (30) day written notice to the contractor if it is considered in the best interest of the Department.

Successful contractor may request cancellation of this contract upon giving thirty (30) day written notice to the DOTD Procurement Director.

All orders delivered prior to the effective date of such termination shall be paid for by the Department in accordance with the terms of the contract, whereupon all obligations of both parties to the contract shall cease.

In the event contract contains a provision entitled "Guarantees" such guarantees shall apply to all items delivered prior to termination.

DEFAULT OF CONTRACTOR

Failure to deliver within the time specified in the bid will constitute a default and may cause cancellation of the contract. Where the State has determined the contractor to be in default, the Department of Transportation and Development reserves the right to purchase any or all products or services covered by this contract on the open market and charge the contractor with cost in excess of the contract price. Until such assessed charges have been paid, no subsequent bid from the defaulting contractor will be considered.

SIGNATURE OF BIDDER

To be considered for an award, all bidders shall fill in the contract proposal completely and shall sign in the appropriate places. Contract proposal form should be returned in its entirety. Acceptance shall be made when signed by the DOTD Procurement Director and copy returned to the contractor.

APPLICABLE LAW

All contracts shall be construed in accordance with and governed by the Laws of the State of Louisiana, including but not limited to DOTD Purchasing Rules & Regulations, Special Instructions & Conditions and specifications listed in this proposal.

BIDDERS CERTIFICATION OF EEOC AND ADA COMPLIANCE

The Department of Transportation and Development and the State of Louisiana is an equal opportunity employer and looks to its contractors, subcontractors, vendors and suppliers to take affirmative action to affect this commitment in its operations.

The Contractor agrees to abide by the requirements of the following as applicable: Titles VI and VII of the Civil Rights Act of 1964, as amended; the Equal Employment Opportunity Act of 1972, as amended; Federal Executive Order 11246, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974, as amended; Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; the Fair Housing Act of 1968 as amended; the Americans with Disabilities Act of 1990, as amended; and Title II of the Genetic Information Nondiscrimination Act of 2008.

The Contractor agrees not to discriminate in its employment practices, and shall render services under this Contract without regard to race, color, age, religion, sex, sexual orientation, gender identity, national origin, veteran status, genetic information, political affiliation or disabilities.

Any act of discrimination committed by Contractor, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this contract.

Bidder agrees to keep informed of and comply with all Federal, State and local laws, ordinances and regulations which affect his employees or prospective employees.

INDEMNITY

Contractor agrees, upon receipt of written notice of a claim or action, to defend the claim or action, or take other appropriate measures, to indemnify, and hold harmless, the State, its officers, its agents and its employees from and against all claims and actions for bodily injury, death or property damages caused by the fault of the contractor, its officers, its agents or its employees. Contractor is obligated to indemnify only to the extent of the fault of the contractor, its officers, its agents, or employees.

However, the contractor shall have no obligations as set forth above with respect to any claim or action from bodily injury, death or property damages arising out of the fault of the State, its officers, its agents or its employees.

For good cause and as consideration for executing this contract, the contractor hereby conveys, sells, assigns and transfers to the State of Louisiana all rights, title and interest in and to all causes of action it may now or hereafter acquire under the Antitrust Laws of the United States and the State of Louisiana, relating to the particular goods or services purchased or acquired by the State of Louisiana pursuant to the Department of Transportation and Development.

FEDERAL CLAUSES

CIVIL RIGHTS

Both parties shall abide by the requirements of Title VII of the Civil Rights Act of 1964, and shall not discriminate against employees or applicants due to color, race, religion, sex, handicap or national origin. Furthermore, both parties shall take affirmative action pursuant to Executive Order #11246 and the National Vocational Rehabilitation Act of 1973 to provide for positive posture in employing and upgrading persons without regard to race, color, religion, sex, handicap or national origin, and shall take affirmative action as provided in the Vietnam Era Veteran's Readjustment Act of 1974. Both parties shall also abide by the requirements of Title VI of the Civil Rights Act of 1964 and the Vocational Rehabilitation Act of 1973 to ensure that all services are delivered without discrimination due to race, color, national origin or handicap.

COOPERATIVE PURCHASE AGREEMENT

State Agencies, Political Subdivisions of the State and Quasi State Agencies may be permitted to purchase from contracts made by the Department of Transportation and Development's Procurement Section.

The Bidder may, at his option, accept this Cooperative Purchase Agreement so that any contract awarded under this proposal will apply to other State Agencies, Political Subdivisions or Quasi Agencies.

Bidder hereby accepts this Cooperative Purchase Agreement so that any contract awarded will apply to other State Agencies, Quasi State Agencies or other Political Subdivisions of the State.

_____ Yes, I agree to accept Cooperative Purchase Agreement

_____ No, I do not accept Cooperative Purchase Agreement

Failure to mark "no" on the above will constitute acceptance of this Cooperative Purchase Agreement to other State Agencies, Political Subdivisions of the State and Quasi State Agencies.

Choosing not to accept this Cooperative Purchase Agreement will have no bearing on the award of the contract.

ORDERS: Other State Agencies are to issue contract release orders/purchase orders for the items required, as and when needed.

Political subdivisions of the State and Quasi Agencies who have been authorized by the Office of State Procurement to purchase from contracts made by the Department of Transportation and Development are to issue their regular purchase orders directly to the Contractor, making reference to the Contract Number, Item Number (if applicable) and Contract Expiration Date.

CONTRACT ADMINISTRATION: The Department of Transportation and Development will not monitor, administer or resolve any discrepancies, controversies, invoicing or payments related to this contract on orders placed by other State Agencies, Political Subdivisions or Quasi Agencies.

Controversies between the Department of Transportation and Development and a Contractor will be resolved by the DOTD Procurement Director.

Controversies between other State Agencies and a Contractor will be resolved by the Director of State Procurement in accordance with R.S. 39:1673.

It will be the responsibility of the ordering entity to correspond directly with the Contractor.

DELIVERY: Vendors accepting the Cooperative Purchase Agreement understand and agree that deliveries to other State Agencies, Political Subdivisions or Quasi Agencies will be on a statewide basis.